

A REGULAR MEETING OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS WAS HELD**FEBRUARY 16, 1999 AT 2:00 P.M.****IN WARRENTON, VIRGINIA**

P R E S E N T Mr. Larry L. Weeks, Chairman; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum; Mr. G. Robert Lee, County Administrator; Mr. Paul S. McCulla

A B S E N T Mr. Joe Winkelmann, Vice Chairman (Joined the meeting in progress at 7:00 p.m.)

CATLETT AND CALVERTON WASTEWATER TREATMENT SYSTEM AND GRANT APPLICATION

A work session was held to receive information regarding a proposed grant application for Catlett and Calverton to construct a subsurface nitrogen removal re-circulation filter system.

COMPREHENSIVE PLAN AMENDMENT AND REZONING REQUEST – EDWARD AND ALICE CLARKE

A work session was held to review to review proposed proffers for a rezoning request for Edward and Alice Clarke.

EXECUTIVE SESSION

Mr. Burton moved to go into executive session pursuant to Virginia Code Section 2.1-344(A)(7) for discussion with legal counsel regarding pending litigation. Mr. Mangum seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

Upon reconvening from executive session, Mr. Burton moved to adopt the following certification. Mr. Mangum seconded.

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Fauquier County Board of Supervisors has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by this Board of Supervisors that such executive meeting was conducted in conformity with Virginia Law; now, therefore, be it

RESOLVED this 16th day of February 1999, That the Fauquier County Board of Supervisors certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Fauquier County Board of Supervisors.

VOTE:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Absent During Meeting: None

The meeting was reconvened in Regular Session at 6:30 p.m. in the Warren Green Meeting Room.

ADOPTION OF THE AGENDA

Mr. Mangum moved to adopt the agenda subject to adding A Resolution Authorizing the Settlement of T.R.T. Management, Inc. vs Board of Supervisors and Counterclaims of Board of Supervisors. Mr. Burton seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

CITIZEN OF THE YEAR AWARDS

Mr. Green presented a plaque to Rick and Lindy Hart in recognition of Marshall District Citizens of the Year.

Mr. Burton presented a plaque to Nick Applegate in recognition of Cedar Run District Citizen of

the Year.

Mr. Mangum presented a plaque to Tracey Goodnough in recognition of Lee District Citizen of the Year.

CHAIRMAN AWARD

Mr. Weeks presented Mr. Mangum with a plaque in special recognition of his service to the Board of Supervisors as Chairman.

A RESOLUTION TO ADOPT THE BOARD OF SUPERVISORS TOP PRIORITIES FOR CALENDAR YEAR 1999

Mr. Burton moved to table until the March 16, 1999 meeting, a resolution to adopt the Board of Supervisors top priorities for CY 1999. Mr. Mangum seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

PROPOSED CHAPTER 8 – RURAL AREAS LAND USE PLAN – AN AMENDMENT TO THE COMPREHENSIVE PLAN

Mr. Mangum moved to table, until the March 16, 1999, meeting, the proposed amendments to Chapter 8 of the Comprehensive Plan dealing with the Rural Areas Land Use Plan. Mr. Green seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

FAUQUIER COUNTY CODE AMENDMENT – CHAPTER 16 – PUBLIC PARKS

A public hearing was held at the January 19, 1999, meeting to consider amendments to Chapter 16 of the Fauquier County Code to incorporate changes in both the type of parks that

are now operated by the Parks and Recreation Department and the way in which those parks are utilized. Mr. Mangum moved to adopt the following ordinance. Mr. Green seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

ORDINANCE

AN ORDINANCE TO AMEND THE FAUQUIER COUNTY

CODE, SECTION 16-1 *ET SEQ.* PUBLIC PARKS

WHEREAS, the Fauquier County Parks and Recreation Board has requested that certain changes be made to Section 16-1 *et seq.* of the Fauquier County Code; and

WHEREAS, the addition of the Warrenton Branch Trail requires the amendment of certain provisions of the Parks and Recreation Ordinance with respect to bicycle operation; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 16th day of February 1999, That the Board of Supervisors does hereby amend Chapter 16 of the Code of Fauquier County as hereinafter set forth:

Sec. 16-1. Generally.

(a) The term "director" shall mean the director of parks and recreation of Fauquier County, or his duly authorized agent. The term "person" shall mean any individual, firm, partnership, corporation or association of persons.

(b) For simplicity, the masculine "he" or "his" has been used throughout this chapter. This pronoun shall be deemed to include the feminine as well.

(c) Any violation of this chapter shall be punishable as provided in section 16-9 hereof.

(d) "Park" and "recreation area" means all land owned or leased by the Department or operated by the Department as a park or recreation area and open to the general public for parks or recreation purposes, including community centers.

Amend Section 16-3 as follows:

Sec. 16-3. Permits for assemblies, festivals, or other special events.

Whenever any person desires to utilize ~~the~~ a park for any event, assembly, festival, entertainment, rally or similar activity, at which in excess of seventy-five (75) persons are expected, a permit shall be first obtained from the director.

Amend Section 16-5 as follows:

Section 16-5 Permits for solicitors and vendors

It shall be unlawful for any person, corporation, association or organization to solicit or vend, sell, lease, peddle or offer for sale any commodity or article within the park, conduct any fundraising, offer or perform any service unless specifically authorized to do so by a permit issued by the director.

Amend Section 16-6 As follows:

Sec. 16-6 Prohibited Conduct

It shall be unlawful for any person, firm, corporation or association using any ~~the~~ park either to perform, or permit to be performed, any of the following acts:

(a) *Damage to public property.* Willfully mark, deface, disfigure, injure, tamper with or displace or remove any building, bridges, boat, watercraft, historical artifact, impoundment structures, tables, benches, fireplaces, railings, paving or paving materials, waterlines or other public utilities or parts or appurtenances thereof; signs, notices or placards, whether temporary or permanent; monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(b) *Pollution of waters.* Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any ~~the~~ park, or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in pollution of said waters.

(c) *Littering or dumping.* Bring in or dump, deposit or leave any bottles, broken glass, ashes, papers, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to ~~the~~ any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

- (d) *Disorderly conduct*. Disturb the peace, or use any profane or obscene language.
- (e) *Disobey lawful order*. Disobey a lawful order of a game warden or employee of the department of parks and recreation.
- (f) *Noise*. Use any loudspeakers, electric noise devices, noisemaking equipment, radio, tape recorder, record player, or other sound-producing device in such a way as to create excessive noise which disturbs other persons.
- (g) *Unsafe conduct*. Endanger the safety of any person by any conduct or act.
- (h) *Fighting*. Commit any assault, battery or engage in fighting.
- (i) *Interference with others*. Prevent any person from using any ~~the~~ park or any of the facilities, or interfere with such use in compliance with this chapter and the rules applicable to such use.
- (j) *Enter areas off limits*. Enter into or remain within any ~~the~~ park after closing hours, or enter into any area of the park which is posted off limits, including but not limited to: areas around the intake valve, inflow tower, release chute and all other areas that may from time to time be posted off limits by the director.
- (k) *Boating restrictions*. Moor, tie, beach or otherwise secure a boat to any structure, dock, beach, tower, dam or bank except those areas or structures allowed for this purpose by the director.
- (l) *Swimming prohibited*. Swim, bathe or wade in any waters or waterways in or adjacent to any ~~the~~ park.
- (m) *Posting of Bills*. Paste, give, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, except as authorized by the director; nor shall any person erect or cause to be erected any sign whatever on any public lands, streets or roads adjacent to any ~~the~~ park.
- (n) *Amusements for gain*. Conduct any amusement for gain or for which a charge is made without a permit of the director, and any such amusement as conducted shall be in accordance with applicable laws of the county and the commonwealth.
- (o) *Drugs*. Possess, consume, or be under the influence of any narcotic, controlled substance, or otherwise described illegal drug or substance in any park, playground or recreation area.
- (p) *Alcoholic beverages*. Possess or consume any alcoholic beverage in any ~~the~~ park ~~except with the authority of and within the guidelines of such permit as may be issued by the Virginia Alcoholic Beverage Control Board, or be under the influence of~~ any alcoholic beverage.

(q) *Wildlife*. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw or otherwise project missiles at any animal, wildlife, reptile or bird; nor shall anyone remove or possess the young of any wild animal, or the eggs or nest, or young of any reptile or bird. (Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on site.

(r) *Projectiles*. Use, shoot, throw, launch or otherwise project any rock, javelin, model airplane, model rocket or other similar missile or instrument in any ~~the~~ park.

(s) *Fires, smoking*. Kindle, build, use or maintain a fire in or upon ~~the~~ any park, except in places and receptacles provided and designated for such purposes; kindle, build, use or maintain a fire when such fire is banned by the proper authority due to drought or otherwise dry condition. Any such fire shall be supervised continuously by an adult from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or underbrush or in any place other than a proper receptacle for said material. No person shall smoke any cigar, cigarette, tobacco or other substance in any posted area designated as a "No Smoking" area by the director of parks and recreation.

(t) *Motorboats*. Use any gas-powered motorized boar or watercraft on the waters of any ~~the~~ park.

(u) *Aquatic safety*. Use any boat without wearing a life jacket, preserver or other approved flotation device, or operate any boat in an unsafe manner.

(v) *Digging*. Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, historical artifacts, relics or souvenirs, or make any excavation by tool, equipment, hand, blasting or other means or agency within any ~~the~~ park.

(w) *Trees and structures*. Climb any tree or walk, climb, stand, or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purpose.

(x) *Dogs and other pets*. Bring onto the lands or inland waters of the park any animal, wildlife, reptile or bird other than dogs or domesticated household cats. Where a dog or cat is brought onto the lands or inland waters of the park, such dog or cat shall at all times be kept on a leash of not more than six (6) feet. The conduct of dogs or cats shall be controlled at all times so as to protect the health, safety, and welfare of any person using the park. Any person having a dog or cat in the park shall deposit all animal excrement in a proper trash receptacle.

(y) *Erect Structures*. Erect any building, booth, tent, stall or any other structure whatsoever without the written permission of the director.

Amend Section 16-7 as follows:

Sec. 16-7. Firearms, knives, weapons, fireworks and explosives.

(a) It shall be unlawful for any person to have in his possession or discharge in any ~~the~~ park any pistol, revolver, shotgun, BB gun, air gun, slingshot, bow and arrow, dart device, or other weapon in which the propelling force is gunpowder, a spring or air, except as may be carried by a duly authorized law enforcement officer.

(b) It shall be unlawful for any person to use, discharge, or have in his possession any fireworks, firecrackers, explosives or rockets of any kind, except for properly supervised, parks and recreation department-sponsored activity in designated areas at designated times.

(c) It shall be unlawful for any person to use, carry or have in his possession any knife with a blade of more than three (3) inches except where such knife is necessary for preparation of food within any ~~the~~ park.

Amend Section 16-8 as follows:

Sec. 16-8 Vehicles

For purposes of this section, "bicycle or other self-propelled vehicle" shall include, but not be limited to scooters, tricycles, wagons, roller skates, and skateboards. "Automobile and other motorized vehicles" shall include but not be limited to, trucks, vans, campers, and motorcycles, if and when permitted within any ~~the~~ park.

The traffic laws and ordinances of this county and applicable state vehicle laws shall apply to the park area. The speed limits within a park shall be determined by the director and posted therein. The director in his discretion may establish speed limits applicable to bicycles and other vehicular traffic in any area wherein such traffic is authorized.

It shall be unlawful for any person in the park to perform or permit to be performed any of the following acts:

(a) Drive any motor vehicle, motorcycle or any other unauthorized motor vehicle on any area except the paved park roads, driveways or parking areas, or such areas as may on occasion be specifically designated as temporary parking areas.

(b) Park, leave or abandon any motor vehicle, motorcycle, or any other unauthorized motor vehicle in any place other than a designated parking area, unless otherwise directed by deputy sheriffs or authorized county employees. Signs, as posted, shall be observed.

(c) Leave any motorized vehicle standing or parked in established parking areas or elsewhere in the park during hours when the park is closed.

(d) Use the parks, park drives, parking places, or parkways for the purpose of demonstrating any motorized vehicles, or for the purpose of instructing another to drive or operate any motorized vehicle; nor shall any person use any park area, including parking places, for the purposes of repairing, washing, waxing, polishing, greasing, otherwise cleaning or performing work upon motorized vehicles. A temporary exception will be made for emergency repairs, as necessary.

(e) Operate any moped, minibike, go-cart, trail bike, or similar motorized vehicle in the park.

(f) Operate any bicycle, scooter, tricycle, wagon, roller skates, skateboard or other similar self-propelled vehicle in any the park except in areas designated for such use.

Sec. 16-8.1. Use of Bicycles in a Park or Recreation Area

~~(a) No person shall ride a bicycle in a park or recreation area on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.~~

(a) No person shall ride a bicycle in a park or recreation area other than on the right hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard to the safety of others, yield the right-of-way to pedestrians, signal all turns, pass to the left of any vehicle they are overtaking, pass to the right of any vehicle they are meeting and otherwise comply in all respects with applicable motor vehicle regulations of the Commonwealth.

~~(b) No person shall park a bicycle in such a way as to constitute a hazard to any person or property. lying on the ground or paving, or set against trees, or in any place or position where others may trip over or be injured by it.~~

(c) Except when authorized by permit pursuant to Section 16-3 of this Ordinance, no person shall engage in any bicycle race. non-motorized vehicle race.

AGREEMENT WITH PIEDMONT RAILROADERS FOR OPERATION OF THE WARRENTON CABOOSE

Mr. Green moved to adopt the following resolution. Mr. Burton seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

RESOLUTION

**A RESOLUTION TO APPROVE AN AGREEMENT WITH THE
PIEDMONT RAILROADERS FOR OPERATION
OF THE WARRENTON CABOOSE**

WHEREAS, the Piedmont Railroaders restored the Fauquier County-owned Warrenton caboose; and

WHEREAS, that same group is now interested in handling the day-to-day operations of the caboose on a volunteer basis; and

WHEREAS, that group has proved its commitment to quality workmanship and responsibility during the restoration process; and

WHEREAS, the Parks and Recreation Board is continually pursuing opportunities for public/private partnerships; and

WHEREAS, an agreement for the operation of the caboose has been negotiated and approved by the Piedmont Railroaders and the Parks and Recreation Board; and

WHEREAS, all such agreements require the approval of the Board of Supervisors of Fauquier County; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors this 16th day of February, 1999, That the agreement with the Piedmont Railroaders be, and it is hereby, approved.

SUPPLEMENTAL FUNDING – PARKS AND RECREATION

Mr. Mangum moved to table until the April 20, 1999, meeting a resolution to transfer funds to the Parks and Recreation Department in the amount of \$10,804. Mr. Burton seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

**PRESENTATION OF REGIONAL TRANSPORTATION NEEDS STUDY AND REQUEST FOR
ENDORSEMENT OF EXPERIMENTAL/DEMONSTRATION PUBLIC TRANSPORTATION GRANT
APPLICATION**

Mr. Mangum moved to adopt the following resolution. Because this is forwarded from the Finance Committee, no second is necessary. The vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

RESOLUTION

A RESOLUTION TO SERVE AS FISCAL AGENT AND TO PROVIDE
MATCHING FUNDS FOR PUBLIC TRANSPORTATION PROVIDED
BY LOUDOUN COUNTY TRANSPORTATION ASSOCIATION, INC.

WHEREAS, the County of Fauquier is interested in establishing a regional bus service with other counties in Planning District Nine; and

WHEREAS, the Loudoun County Transportation Association, Inc., is willing to provide and administer the regional transportation bus service on behalf of the localities; and

WHEREAS, the Department of Rail and Public Transportation of the Commonwealth of Virginia has available financial assistance through a grant application in the amount of \$196,704 to help defray the costs of the regional transportation systems; and

WHEREAS, the Loudoun County Transportation Association, Inc., is willing to prepare, execute and file the necessary applications, documents and other grant materials as required; and

WHEREAS, the Board of Supervisors of Fauquier County deems it in the best interest of its citizens to file such an application; now, therefore, be it

RESOLVED by the Board of Supervisors of Fauquier County this 16th day of February 1999, That the Loudoun County Transportation Association, Inc. be, and is hereby, authorized to prepare, execute and file, on behalf of the Fauquier County Board of Supervisors, an application to the Department of Rail and Public Transportation for the Commonwealth of Virginia for a

grant of financial assistance in the amount of \$196,704 to be used to establish and operate a regional public transportation bus system for the County of Fauquier and such other counties in Planning District Nine as shall deem it in their best interest to participate; and, be it

RESOLVED FURTHER, That the Loudoun County Transportation Association, Inc. be, and is hereby, authorized to furnish documents and other information as may be required for the processing of the grant request; and, be it

RESOLVED FURTHER, That the County of Fauquier agrees to be the fiscal agent for the grant; and, be it

RESOLVED FURTHER, That the Board of Supervisors certifies that the funds will be used in accordance with the requirements of Virginia Code Section 58.1-638.A.4, that the records of receipts and expenditures of the funds granted under the grant application may be subject to audit by the Department of Rail and Public Transportation, and the State Auditor of Public Accounts, and that the funds shall be used only for such purposes as authorized in the Code of Virginia; and, be it

RESOLVED FINALLY, That G. Robert Lee, County Administrator, be, and is hereby, authorized to forward a certified copy of this Resolution to the Loudoun County Transportation Association, Inc. and to such other entities as may be necessary to accomplish the purposes of this Resolution.

ROBINSON, FARMER, COX ASSOCIATES PROPOSAL TO EVALUATE THE FAUQUIER COUNTY FINANCE DEPARTMENT

Mr. Burton moved to authorize the County Administrator to contract with Robinson, Farmer, Cox Associates to evaluate the Fauquier County Finance Department. Mr. Green seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

CATLETT/CALVERTON WASTEWATER TREATMENT SYSTEMS GRANT AWARD

Mr. Burton moved to table until the April 20, 1999 meeting, a resolution to authorize the County Administrator to make contract negotiations and sign the contract to accept a grant from the Virginia Water Improvement Fund for the purpose of providing funding assistance with the construction of non-discharging, community-based, on-site treatment systems for Catlett and Calverton. Mr. Mangum seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

REQUEST FOR BOARD OF SUPERVISORS TO MAKE A MODIFICATION TO SECTION 5-8 OF THE SUBDIVISION ORDINANCE TO ALLOW A CUL-DE-SAC STREET TO EXCEED 700 FEET IN LENGTH

Mr. Burton moved to adopt the following resolution. Mr. Mangum seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

RESOLUTION

WHEREAS, Mr. Eugene M. Luke and MSH & DAH, LLC, are proposing to subdivide a total of 154 acres into a total of thirteen lots proposed to be called Kettle Farm Estates; and

WHEREAS, the proposed Kettle Farm Subdivision includes a cul-de-sac which is 2,850 feet in length; and

WHEREAS, Section 5-8 of the County's Subdivision Ordinance states that cul-de-sacs should not exceed 700 feet in length; and

WHEREAS, Section 4-27 of the Subdivision Ordinance allows the Board of Supervisors to modify or waive Subdivision Ordinance requirements at the request of an applicant following a recommendation by the Planning Commission; and

WHEREAS, at the Planning Commission meeting held on January 28, 1999, the Commission unanimously approved a motion recommending that the waiver to Section 5-8 of the Subdivision Ordinance to allow the proposed cul-de-sac to exceed 700 feet be approved; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 16th day of February 1999, That a

modification to Section 5-8 of the Subdivision Ordinance to allow a cul-de-sac in the proposed Kettle Farms Estates Subdivision to exceed 700 feet is hereby approved.

A RESOLUTION AUTHORIZING THE SETTLEMENT OF T.R.T. MANAGEMENT, INC. VS BOARD OF SUPERVISORS AND COUNTERCLAIMS OF BOARD OF SUPERVISORS

Mr. Mangum moved to adopt the following resolution. Mr. Green seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

RESOLUTION

**A RESOLUTION AUTHORIZING THE SETTLEMENT
OF *T.R.T. MANAGEMENT, INC. vs. BOARD OF
SUPERVISORS* AND COUNTERCLAIMS OF
BOARD OF SUPERVISORS**

WHEREAS, T.R.T. Management, Inc. filed an adversary proceeding in the United States Bankruptcy Court for the Eastern District of Virginia against the Board of Supervisors (adversary proceeding No. 98-1083); and

WHEREAS, the Board of Supervisors, by counsel, filed counterclaims against T.R.T. Management, Inc., Thomas Russell Todd and Jack Cornell Patton; and

WHEREAS, the Board of Supervisors filed a claim against Fidelity and Deposit Company of Maryland on its performance bond; and

WHEREAS, the Board of Supervisors requested indemnification with respect to the claims of T.R.T. Management, Inc. from Moseley, Harris & McClintock, P.C., project architects; and

WHEREAS, counsel for the parties have discussed settlement of the claims and counterclaims subject to Bankruptcy Court approval and approval by the Board of Supervisors; now, therefore, be it

RESOLVED by the Board of Supervisors of Fauquier County this 16th day of February 1999,

That the Board of Supervisors authorize the settlement of the T.R.T. Management, Inc., claims against it and the counterclaims of the Board of Supervisors against T.R.T. Management, Inc. and Fidelity and Deposit Company of Maryland, contingent upon Bankruptcy Court approval, full releases by all parties of all claims and counterclaims, payment of \$65,000 by Fauquier County to T.R.T. Management, Inc., debtor in possession, and payment by Fidelity and Deposit of Maryland, Inc. of \$20,000 to Fauquier County; and be it

RESOLVED FURTHER, That the Board of Supervisors authorize the settlement of its indemnification claim against Moseley, Harris & McClintock, P.C. upon payment of \$65,000 by Moseley, Harris & McClintock, P.C. to Fauquier County, and releases by both parties of potential claims and counterclaims; and be it

RESOLVED FINALLY, That the Board of Supervisors authorize the release of its counterclaims upon approval by the Bankruptcy Court of a settlement agreement in accordance with the terms referenced above and upon release of all claims by T.R.T. Management, Inc., Thomas Russell Todd, Jack Cornell Patton and Fidelity, Deposit Company of Maryland, execution of appropriate documents releasing any and all claims they may have against the Board of Supervisors, Fauquier County, and/or any agency, department or employee of the County, and further authorizes G. Robert Lee, County Administrator, or Malcolm M. Mitchell, Jr., Bankruptcy Counsel for the Board of Supervisors, to execute any necessary releases or other documents to carry out the foregoing settlement.

APPOINTMENTS

Mr. Mangum moved to appoint Chuck Medvitz to fill an unexpired term on the Airport Committee to December 31, 1999. Mr. Burton seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

By unanimous consent, Vicky McQuillen was appointed to the Teacher Compensation Task Force representing Marshall District.

Mr. Mangum moved to table the appointments to the Disability Services Board until the March 16, 1999 meeting. Mr. Green seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

SUPERVISORS TIME

- Mr. Burton invited members of the Board of Supervisors to attend the Johnson Grass Annual Meeting on February 23 at 6:00 p.m. at Fauquier High School.
- Mr. Mangum informed Board members that citizens interested in creating a Southern Fauquier sports complex would be submitting information in the future.
- Mr. Green asked the staff to prepare a proclamation in honor of Paul Mellon to be presented to his family at a future meeting.
- Mr. Weeks informed the Board members that the Town of Warrenton voted not to join with the County in economic development efforts. Mr. Weeks asked that a work session be scheduled for March 16 to discuss options.
- Mr. Weeks asked that the Finance Director prepare information regarding the potential housing development aspects at Vint Hill.

ANNOUNCEMENTS

- Mr. Lee reminded the Board of Supervisors that a joint meeting with the Town of Warrenton was scheduled February 22 at 7:00 p.m. at Town Hall to receive public input regarding the Cable TV franchise.

FAUQUIER COUNTY CODE AMENDMENT – SECTION 7-4 – CENTRAL ABSENTEE VOTER ELECTION DISTRICT

A public hearing was held to consider amending Section 7-4 of the Fauquier County Code to locate the Central Absentee Voter District at 32 Waterloo Street. No one spoke. The public hearing was closed. Mr. Green moved to adopt the following ordinance. Mr. Mangum seconded, and the vote for the motion was 4 to 0, as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: Mr. Joe Winkelmann

Abstention: None

ORDINANCE

AN ORDINANCE AMENDING SECTION 7-4 OF
THE CODE OF FAUQUIER COUNTY RELATING TO THE
CENTRAL ABSENTEE VOTER ELECTION DISTRICT

WHEREAS, the Central Absentee Voter Election District has been located at the County of Fauquier, Central Offices, Fourth Floor Conference Room, 40 Culpeper Street, Warrenton, Virginia; and

WHEREAS, the Fauquier County Registrar has respectfully requested that the Central Absentee Voter Election District cease to be located within the Central offices of the County of Fauquier; and

WHEREAS, the Fauquier County Registrar has located in her offices, a handicapped accessible, centrally located facility, capable of housing the Central Absentee Voter Election District; now, therefore, be it

ORDAINED by the Board of Supervisors of Fauquier County this 16th day of February, 1999, That Section 7-4 of the Code of Fauquier County relating to the Central Absentee Voter Election District, be and is hereby amended as follows:

Section 7-4. Central Absentee Voter Election District

There is hereby established a Central Absentee Voter Election District which shall receive, count and record all absentee ballots that are properly cast in all elections held in the County. The Central Absentee Voter Election District shall be located at the Office of the Fauquier County Registrar at 32 Waterloo Street, Warrenton, Virginia, 20186.

SPECIAL EXCEPTION - LUCK STONE CORPORATION, OWNER, AND NATIONAL COMMUNICATION TOWERS, L.C., APPLICANTS

A public hearing was held to consider a request for special exception approval for Luck Stone Corporation, Owner, and National Communication Towers, L.C., Applicants, to construct and operate a telecommunications facility and accessory uses to include a self-supporting lattice tower not to exceed 199 feet in height. The property is located on the west side of Marsh Road (Route 17) on the Luck Stone Quarry site in Bealeton, PIN #6898-27-5158-000, Lee District. Elliott Harrigan, and John Pullen spoke in favor of the request. Kitty Smith said that the Board should question the applicant about using a monopole versus the lattice. No one else spoke. The public hearing was closed. Mr. Mangum moved to adopt the following resolution. Mr. Winkelmann seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Larry L. Weeks; Mr. Wilbur W. Burton; Mr.

James R. Green, Jr.; Mr. David C. Mangum

Nays: Mr. Joe Winkelmann

Absent During Vote: None

Abstention: None

RESOLUTION

A RESOLUTION TO APPROVE SPECIAL EXCEPTION

REQUEST #SE98-L-18

NATIONAL COMMUNICATION TOWERS

WHEREAS, the Applicant, National Communication Towers, L.C., and Property Owner, Luck Stone Corp., have filed an application for a special exception to construct and operate a telecommunications facility and accessory uses to include a self-supporting lattice tower not to exceed 199 feet in height, pursuant to Section 3-320.3, Public Utilities, of the Fauquier County Zoning Ordinance; and

WHEREAS, the Special Exception Application of National Communication Towers, L.C., Applicant, and Luck Stone Corp., Property Owner, has been properly filed and all required notices of the public hearing have been properly made, and the applicant has presented evidence both oral and documentary, and the staff has a filed staff report, all indicating compliance with the general standards for special exception as set forth in Article 5 of the Zoning Ordinance and the Board further finds that the more restrictive standards of Articles 5-2001, 5-2002, and 11 of said Zoning Ordinance are met in this application; and

WHEREAS, the Fauquier County Planning Commission held a public hearing on January 28, 1999, on this special exception amendment request and recommended approval; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors this 16th day of February 1999, That Special Exception #SE98-L-18, Luck Stone Corp., Property Owner (PIN #6898-27-5158-000), be, and is hereby, approved subject to the following conditions:

CONDITIONS:

1. The use shall comply with all FAA requirements at all times.
2. The tower shall be lighted only to meet FAA requirements with no additional lighting permitted.
3. The height of the tower shall not exceed 199 feet.
4. The tower structure of this special exception telecommunication facility request shall be of a monopole type construction.

5. The tower shall be painted appropriately so as to minimize visual impact as permitted by FAA regulations.
6. A landscaping plan will be submitted with the site plan.
7. Prior to the issuance of a zoning permit, three (3) telecommunication providers shall have executed leases with the applicant. The applicant shall make reasonable efforts to permit co-location by any additional telecommunication users. The applicant shall provide written documentation to the Fauquier County Zoning Administrator in the event that any future co-location cannot be accommodated.
8. The applicant shall provide to the County public service agencies, at no cost to the locality, one acceptable site on the tower and necessary space in the equipment room.
9. Annual Report. The owner of each antenna or tower shall submit a report to the Zoning Administrator once a year, no later than July 1. The report shall state the current user status of the tower.
10. Antenna and Tower Removal. Any antenna or tower shall be disassembled and removed from the site within ninety (90) days of the discontinuance of the use of the tower for wireless telecommunications purposes. Removal includes the removal of the antennas, telecommunications towers, fence footers, underground cables and support buildings. The buildings and foundation may remain with the landowner's approval. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

SPECIAL EXCEPTION – DRS. WILLIAM AND ELIZABETH POWELL, OWNERS, AND SHADY GROVE KENNEL AND HUNTING PRESERVE, APPLICANT

A public hearing was held to consider a request for special exception approval for Drs. William and Elizabeth Powell, Owners, and Shady Grove Kennel and Hunting Preserve, Applicant, to renew a special exception approved on September 4, 1990 for a commercial hunting preserve with sporting clays. The property contains 504 acres and is located on Remington Road (Route 656 and Lucky Hill Road (Route 655), PIN #6888-83-3857-000, and #6898-10-8862-000, Lee District. Wes Worley, Neil Selby, John Meadows, and Adam Butler spoke in favor of the request. No one else spoke. The public hearing was closed. Mr. Mangum moved to adopt the following resolution. Mr. Winkelmann seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Larry L. Weeks; Mr. Joe Winkelmann; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: None

Abstention: None

RESOLUTION**A RESOLUTION TO APPROVE SPECIAL EXCEPTION****REQUEST #SE99-L-01****SHADY GROVE KENNEL & HUNTING PRESERVE**

WHEREAS, the applicant, Shady Grove Kennel & Hunting Preserve, and property owners, Drs. William and Elizabeth Powell, have filed an application to renew a special exception approved on September 4, 1990, for a commercial hunting preserve with sporting clays pursuant to Section 3-309.13, Outdoor Recreation-Commercial Hunting Preserve, of the Fauquier County Zoning Ordinance; and

WHEREAS, the special exception application of the applicant, Shady Grove Kennel and Hunting Preserve, has been properly filed and all required notices of the public hearing have been properly made, and the applicant has presented evidence both oral and documentary, and the staff has a filed staff report, all indicating compliance with the general standards for special exception as set forth in Article 5 of the Zoning Ordinance; and

WHEREAS, the Fauquier County Planning Commission held a public hearing on January 28, 1999, on this special exception amendment request and recommended approval; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 16th day of February 1999, That Special Exception #SE99-L-01, Shady Grove Kennel and Hunting Preserve (PIN #6888-83-3857-000 and #6898-10-8862-000) be, and is hereby, approved subject to the following conditions:

1. The hunting preserve is to be managed by Neil Selby of Shady Grove Kennel and Hunting Preserve as the lessee of the property. This special exception does not transfer with any change in management.
2. This special exception shall be granted for 3 years with review and renewal subject to Section 5-012 of the Zoning Ordinance.
3. The number of employees shall not exceed 12.
4. All dogs housed on-site and used for this operation shall be kept in kennel facilities which are maintained in accordance with all applicable health standards.
5. All caretakers must live on the premises at all times so long as dogs are housed on the property.
6. The use shall be in general conformance with the proposed schematic plan titled Shady Grove Kennel and Hunting Preserve and dated May 8, 1990.

7. The quail facilities shall be in accordance with all applicable State and local regulations at all times.
8. The entire facility shall be in accordance with all applicable State and local regulations at all times.
9. Appropriate signage shall be erected on all boundaries of the property including the use.
10. The hunting preserve shall be limited to bird hunting and the use of shotguns with birdshot only.
11. The preserve may operate between 8:00 A.M. and 5:00 P.M.
12. The sporting clays may operate from 8:00 A.M. to 8:00 P.M. year round with one sporting clay course.
13. A 100 year buffer zone for safety shall be provided and maintained around the perimeter of the designated hunting preserve area. All hunting preserve activities shall be limited to this designated area. Hunting shall be prohibited on the remainder of the property outside this designated preserve area.
14. In order to properly secure the hunting preserve, the entire border between the preserve and the proposed 100 year buffer area shall be adequately designated and secured with single strand wire fencing.
15. The required fencing shall be appropriately marked with bright-colored signs, which should state a minimum "Warning: Hunting Preserve Area-No Trespassing".
16. Lighting will be oriented to the interior of the property.

REZONING REQUEST – CALVIN L. RITCHIE

A public hearing was held to consider a request from Calvin L. Ritchie to rezone 14.95 acres of 96.238 acres from I-1 to I-2 to allow agricultural uses and contractor's offices, shops, and material storage yards with all equipment and material contained entirely within a building or completely screened from view. The property is located on Ritchie Road (Route 644), PIN #7808-52-4186-000, Cedar Run District. No one spoke. The public hearing was closed. At the request of the applicant, Mr. Burton moved to table the decision until the February 15, 2000 meeting. Mr. Winkelmann seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Larry L. Weeks; Mr. Joe Winkelmann; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: None

Abstention: None

CAPITAL IMPROVEMENTS PLAN FY 2000-2005

A public hearing was held to consider the Capital Improvements Plan for FY 2000-2005. The following people spoke:

Kathleen King Auburn Dam should be taken out of the CIP

Gary Maloche Pointed out differences between the Planning Commission and County Administrator recommendations. Also spoke in support of funding for the John Marshall Branch Library

Jack Lynch Spoke in favor of funding for the John Marshall Branch Library

Letha Lawson Spoke in favor of funding for the John Marshall Branch Library

Chuck Medvitz Spoke in favor of the Planning Commission recommendations, except for the Auburn Dam and radio system

Kathleen Rogers Representing Piedmont Environmental Council, spoke in opposition to funding for the Auburn Dam

Kitty Smith Spoke in opposition to the detention facility. Should appoint a committee to study safety issues relating to the court facilities

Roy Anderson Gave details on maintenance of the radio system

Sue Scheer Spoke in opposition to funding for the Auburn Dam

Jim Stone Spoke in opposition to funding for the Auburn Dam

Jim Borland Stated that the Board should adhere to the CIP process and disclose current state of accounts

Ernie Gray Spoke in favor of more funding for the comprehensive maintenance plan for schools.

No one else spoke. The public hearing was closed. Mr. Mangum moved to postpone adoption of the CIP to be adopted with the budget. Mr. Winkelmann seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Larry L. Weeks; Mr. Joe Winkelmann; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C.

Mangum

Nays: None

Absent During Vote: None

Abstention: None

REZONING REQUEST – HUNTER’S HEAD, L.C., OWNERS

A public hearing was held to consider a request from Hunter’s Head, L.C., Owners, to rezone 0.8018 acre of a 2.40 acre parcel from Village Residential (V) to Village Commercial (VC) to operate an eating establishment and a retail sales (food) business. The property is located on the north side of John Mosby Highway (Route 50) in the village of Upperville, PIN #6054-95-8361-000, Marshall District. Merle Fallon, representing Sandra Lerner, spoke in favor. There was a video tape testimony in favor of the request by Ms. Lerner. Clarke Hall, Brook Middleton, Helen Anne Mason, Michael Robinson, Julie Martin, Will Green, Michelle Bollder-Gellerin, Jim Stribling, John Fraser, Jane Condon, John Pennington, R.D. Sisk, Diane Griffith, Bill Ridge, Sharon Phipps, Tony Buchanan, and Vernon Thompson also spoke in favor of the request. Dan O’Connell, representing five anonymous property owners, David Hartley, Ed Moore, Fred Zimmer, Lef Leferts, Mary Nesbit, John Ross, Bush Nichols, Ann Zimmer, Katie Anders, Jill Davis, John Masland, Weston Warren, Clair Nichols and Michelle Murchine spoke in opposition. The public hearing was closed. Mr. Green moved to table the decision until the March 16, 1999 meeting. Mr. Winkelmann seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Larry L. Weeks; Mr. Joe Winkelmann; Mr. Wilbur W. Burton; Mr. James R. Green, Jr.; Mr. David C. Mangum

Nays: None

Absent During Vote: None

Abstention: None

With no further business, the meeting was adjourned.